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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 ARTHUR LEE HARRIS,

12 Petitioner,

13 vs.

14 MATTHEW CATE, Secretary of the California  
Department of Corrections and Rehabilitation,

15 Respondent.  
16

Civil No. 10cv0966-JLS (RBB)

**ORDER SUA SPONTE  
SUBSTITUTING RESPONDENTS**

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18 On July 1, 2010, Petitioner, a state prisoner proceeding pro se, filed a First Amended  
19 Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, naming Bobby Phillips, the  
20 Warden of the institution where he was confined, and Edmund G. Brown, the California  
21 Attorney General, as Respondents. (Doc. No. 1.) Petitioner has since filed a Notice of Change  
22 of address indicating that he has been transferred to another institution. (Doc. No. 12.)

23 A writ of habeas corpus acts upon the custodian of the state prisoner. See 28 U.S.C.  
24 § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Because Petitioner's place of confinement has  
25 changed, the Warden of the previous institution is no longer a proper Respondent. In addition,  
26 the California Attorney General is not a proper Respondent to this action. See Rule 2 (b), 28  
27 U.S.C. foll. § 2254. In order to conform with the requirements of Rules 2(a) and 2(b) of the  
28 Rules Governing § 2254 Cases and to avoid changing the Respondent again if Petitioner is

1 transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution  
2 of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as  
3 Respondent in place of “Bobby Phillips” and “Edmund G. Brown.” See Ortiz-Sandoval v.  
4 Gomez, 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may  
5 be the chief officer in charge of state penal institutions).

6 The Clerk of the Court shall modify the docket to reflect “Matthew Cate, Secretary” as  
7 Respondent in place of “Bobby Phillips,” “Edmund G. Brown” and “Ben Curry.”<sup>1</sup>

8 **IT IS SO ORDERED.**

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10 DATED: October 7, 2010



Ruben B. Brooks  
United States Magistrate Judge

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14 CC: ALL PARTIES  
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27 <sup>1</sup> In his original Petition, Petitioner named “Ben Curry” as Respondent. (Doc. No. 1.) In its June 1, 2010 Order  
28 dismissing the Petition, the Court instructed Petitioner that “Ben Curry” was not a proper Respondent to this action. (Doc.  
No. 4.) Petitioner did not name “Ben Curry” as a Respondent in the First Amended Petition, the operative pleading in this  
action. The Clerk shall therefore remove “Ben Curry” as a listed Respondent on the docket.